

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

Crim. File No. 12-253-003 (MJD/JSM)

DAMIEN DWAYNE EASTLING,

Defendant.

Thomas M. Hollenhorst, Assistant United States Attorney, Counsel for Plaintiff.

Damien Dwayne Eastling, pro se.

Pending before the Court is the Government's Motion to Confirm Waiver of Attorney-Client Privilege. [Docket No. 490]

In its Order dated January 26, 2015 [Docket No. 498] the Court indicated that a limited waiver of attorney client privilege was necessary only with respect to the "third prong" of Defendant's § 2255 motion, alleging that Attorney Bruder failed to fully advise Defendant of the terms of his guilty plea and sentencing.

The Court granted Defendant the choice of withdrawing the third prong of his § 2255 motion or allowing a limited waiver of the attorney-client privilege on that particular allegation only. In so ordering, the Court granted Defendant

fourteen days to file a notice withdrawing the third prong of his § 2255 motion.

If Defendant failed to timely withdraw the third prong of his § 2255 motion, the Court stated that it would enter an order granting Attorney Bruder leave to file an affidavit addressing that prong of his motion only.

Defendant has not filed a notice with the Court within fourteen days of its January 26, 2015, Order.

Accordingly, based on the files, records, and proceedings herein, **IT IS
HEREBY ORDERED:**

1. That the Government's Motion to Confirm Waiver of Attorney Client Privilege [Docket No. 490] is **GRANTED, in part**, subject to the following restrictions:
 - a. The Court grants Attorney Bruder leave to file an affidavit addressing Defendant's § 2255 motion.
 - b. Attorney Bruder's affidavit will address **only** Defendant's allegation that he failed to fully advise Defendant about the terms of his guilty plea and possible sentence.
 - c. Attorney Bruder's affidavit **will not** address any other allegation asserted by Defendant in his § 2255 motion.

2. The Government will have **30 days** from the date of this Order to obtain an affidavit from Attorney Bruder, and an additional **30 days** thereafter to prepare its response to Petitioner's § 2255 motion.

Date: March 23, 2015

s/ Michael J. Davis

Michael J. Davis
Chief Judge
United States District Court